

CABINET

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NEIGHBOURHOOD PLANNING

Portfolio Holder: Councillor Jane Chitty, Portfolio Holder for Planning, Economic Growth and Regulation

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Summary

This report outlines the process and responsibilities in preparing Neighbourhood Plans. It provides an update on the current position with the five Neighbourhood Plans in preparation in Medway. The report seeks to clarify and formalise the Council's governance process in decision making on policies that will form part of the Council's Development Plan.

1. Budget and policy framework

- 1.1. Neighbourhood Plans were introduced through the Localism Act 2011 and are considered to be one means of encouraging wider participation of local communities in planning for the future of their local areas. Once adopted, or 'made', the Neighbourhood Plan, forms part of the Development Plan for the local planning authority, which also includes the adopted Local Plan. The Development Plan forms part of the Council's policy framework.
- 1.2. The majority of the costs of preparing the content of a Neighbourhood Plan are met by the Neighbourhood Planning group. This is the group of local people and businesses that has been set up to develop the plan. However, the Council also has specific responsibilities in the process, which have cost implications. These costs include arranging an independent examination of the draft Neighbourhood Plan and holding a referendum to determine if the local community supports the plan. The work of the local planning authority in relation to supporting neighbourhood planning is met within the Planning Service budget. The government provides a Neighbourhood Planning grant that may meet the costs of examination and the referendum, but the specific costs are not yet known.

2. Background

2.1. Neighbourhood Plans are considered to be one means of encouraging wider participation of local communities in planning for the future of their local areas. Once adopted, or 'made', the Neighbourhood Plan, forms part of the Development Plan for the local planning authority. A 'made' Neighbourhood Plan therefore is considered alongside the Council's Local Plan and national planning policy in determining decisions on planning applications. The main stages of preparing a Neighbourhood Plan can be summarised as:

Step 1: Designating a neighbourhood area and if appropriate a neighbourhood forum

Step 2: Preparing a draft Neighbourhood Plan

Step 3: Pre-submission publicity and consultation

Step 4: Submission of a Neighbourhood Plan to the local planning authority

Step 5: Independent Examination

Steps 6 & 7: Referendum and bringing the Neighbourhood Plan into force

2.2. Further details of the key stages in preparing a Neighbourhood Plan, or a Neighbourhood Development Order are outlined in the government's Planning Practice Guidance. An extract is set out at Appendix 1. A Neighbourhood Development Order is different to a Neighbourhood Plan and can grant planning permission for specific types of development in a specific neighbourhood area. There are some common steps in the processes.

2.3. There are five Neighbourhood Plans at different stages of development in Medway:

- Cliffe and Cliffe Woods - designated 2015
- High Halstow – designated 2018
- Hoo St Werburgh and Chattenden – designated 2018
- Arches (Chatham) – designated 2019
- Frindsbury Extra – designated 2022

2.4. Cliffe and Cliffe Woods is the most advanced plan, and an independent examination is arranged for September 2022. The Council consulted on the submitted Neighbourhood Plan in Spring 2022. A limited number of comments were received, potentially indicating that key issues had been made and addressed in previous rounds of consultation carried out by the neighbourhood planning group. The Planning Service is now commissioning an examiner to carry out an independent Examination of the plan. His report is expected later this autumn. The Council will need to publish and consider the examiner's report and to make a decision on whether to send the plan to referendum. The Planning Service is liaising with colleagues in Electoral Services in planning for the referendum stage.

2.5. High Halstow has consulted on its draft Neighbourhood Plan and supporting Design Code, but has not yet submitted the draft plan to Medway Council. There has been some engagement over the last two years, to share information and seek coordination across the emerging Medway Local Plan,

Hoo Development Framework, and the Neighbourhood Plan. The Planning Service continues to seek collaboration with the Neighbourhood Planning group.

- 2.6. The Hoo St Werburgh and Chattenden neighbourhood planning group has submitted a draft plan to the Planning Service to request a Strategic Environmental Assessment/Habitats Regulation Assessment screening report. This is in advance of the group's plans to consult locally on its draft plan in coming months. The Planning Service will continue to seek opportunities for collaboration, particularly through work on the Hoo Development Framework.
- 2.7. The Arches (Chatham) Neighbourhood Forum has prepared a draft plan that seeks to deliver sustainable development in Luton and parts of the adjoining Chatham town centre. The forum has been liaising with Medway Council throughout the preparation process. The forum has recently completed a stage of local consultation (at 'Regulation 14') and is intending to submit its plan to Medway Council this autumn. The Council will then need to publish the plan for further consultation (at 'Regulation 16') and arrange an independent examination of the plan.
- 2.8. The parish of Frindsbury Extra was designated in Spring 2022 as a Neighbourhood Area for the purpose of preparing a Neighbourhood Plan. The Council has notified the parish council of the formal designation and has arranged a joint meeting to progress discussions.
- 2.9. As the work on local Neighbourhood Plans progresses, the Council needs to make arrangements for consultation at 'Regulation 16' and arrange an independent examination of each plan. Following the examination, it needs to formally consider the recommendations in the examiner's report and decide whether to send the draft plan to referendum, and subject to the outcome of the referendum, formally adopt the Neighbourhood Plan. It is important to have a clear process in place to support effective governance in policy making. The Council also wishes to provide greater certainty to neighbourhood planning groups on the timetable and process for advancing their plans.

3. Options

- 3.1. The neighbourhood planning process is set out in legislation. This specifies the responsibilities of the Council in the preparation and adoption of a Neighbourhood Plan. Therefore, there are limited options open to the Council in relation to the process. The Council may wish to consider the decision-making route for specified stages of the process, such as the review of the Examiner's report and the decision to send the plan to referendum.
- 3.2. The Council will have the opportunity at key stages in the process to comment or suggest amendments to the Neighbourhood Plan, within the specific remits of the legislation and the role of the Council at those stages.

4. Advice and analysis

- 4.1. Given the upcoming work on Neighbourhood Plans in Medway, it is considered timely to brief members on the process, to help clarify the procedural responsibilities on the Council. It is also useful to specify the steps that the Council will take to influence and approve the content of the plans which when adopted will form part of Medway Council's Development Plan.
- 4.2. The key procedural responsibilities of the Council involve:
 - Designation of the Neighbourhood Area and where appropriate Neighbourhood Forum;
 - Preparation of a Strategic Environmental Assessment (SEA)/Habitat Regulations Assessment (HRA) screening report prior to the submission of the draft plan to the local planning authority;
 - Consultation on the draft plan at 'Regulation 16' for a minimum of six weeks
 - Arranging an independent examination of the draft plan
 - On receipt of the examiner's final report, to decide whether to accept or decline the report's recommendations, or to seek modifications.
 - If the Council accepts the examiner's recommendations, it must then organise a referendum
 - If the Council declines to accept the examiner's recommendations, it must consult on its decision for a six-week period.
 - Within eight weeks of a successful referendum, the Neighbourhood Plan must be 'made', that is, adopted by Full Council.
- 4.3. The Council has established a delegation (reference: decision 156/2019) for the approval of the designation of a Neighbourhood Area that forms the starting point for the process. The Planning Service provides support for the preparation of Neighbourhood Plans before they are formally submitted to the Council. This includes preparation of a screening report, consultation with statutory consultees and comments on early drafts of the plan, if made available. Officers also provide comments on the pre-submission consultation carried out at 'Regulation 14'.
- 4.4. When the draft plan, and supporting materials, are submitted to the local planning authority, the Council must arrange further consultation at 'Regulation 16'. The Council must publish the plan as submitted, if statutory requirements are met. The Council cannot make its own amendments to the draft plan at this stage. However, the Council can make formal comments on the consultation that can be considered by the independent examiner.
- 4.5. As the 'Regulation 16' consultation is a key stage for the Council to assess the draft policies, and to make comments for the consideration of the examiner, it is important that there is member input to the consultation comments. It is considered appropriate that the consultation draft plan and proposed comments are presented to Cabinet for consideration and approval.

- 4.6. The Council must consider its response to the examiner's report, and if it accepts or declines the recommendations. It is considered that this is a Cabinet decision. If the Council accepts the recommendations, it will then notify its intention to send the plan to referendum. If the Council declines the examiner's recommendations, Cabinet will approve a six-week consultation on its decision.
- 4.7. Following a successful referendum, this will be reported to Full Council within eight weeks, seeking approval to 'make' the Neighbourhood Plan, and this will form part of the Development Plan for Medway.
- 4.8. Neighbourhood plans are prepared for the purpose of promoting sustainable development. Further consideration of how the policies can contribute to sustainability will be given at the consultation and examination stages.

5. Risk management

- 5.1. Much of the work carried out in the neighbourhood planning process is external to the Council. The decision to prepare a Neighbourhood Plan is made by the local community, who then decide on the content of the plan, including its vision and objectives, and policies. The Council has a duty to support the preparation of Neighbourhood Plans, and can provide comments, information and advice to the neighbourhood planning group. As outlined in earlier sections of this report, the Council has specific responsibilities in the process. This separation of functions and responsibilities has the potential to create some risks in the process. The Planning Service has sought to work constructively with the neighbourhood planning groups across Medway, so that work streams are coordinated.
- 5.2. In the absence of an up-to-date Medway Local Plan, there are challenges in providing a definitive assessment of compliance with the Council's strategic policies. Therefore, there is a potential risk that Neighbourhood Plan policy does not clearly align with the Council's aims for sustainable development. The main areas of potential risk are outlined below:

Risk	Description	Action to avoid or mitigate risk	Risk rating
Neighbourhood Plan conflicts with Medway Local Plan.	Neighbourhood Plan policies do not align with Council's policies and assessments for sustainable development.	Engagement with NP group, and consultation comments, consideration of Basic Conditions Statement, and Examiner's report	C2
Unclear governance process leads to delays or weak basis for decision making in	Lack of effective engagement by members in policy making and uncertainty for NP	Process to be formalised as proposed in this report, leading to clearer advice on timing to NP groups, and improved	D3

Risk	Description	Action to avoid or mitigate risk	Risk rating
preparation and adoption of Neighbourhood Plan.	groups on timing and process to adoption.	communications with Council members.	
Cost of preparation of Neighbourhood Plan creates budget pressure on Council.	Costs exceed agreed service budgets, placing pressure on Council resources.	Secure government funding through Neighbourhood Planning grant and manage resources in Planning Service. Liaison with Parish Councils and Neighbourhood Fora.	C3
Ongoing work on Medway Local Plan delays progress on Neighbourhood Plans.	Uncertainty for NP groups on strategic policy and allocations.	Planning Service continues to work with NP groups.	C2

6. Consultation

- 6.1. There are proscribed stages of consultation in the neighbourhood planning process. The neighbourhood planning group must consult on its draft plan in advance of submission to the local planning authority. Many of the groups in Medway have carried out wider consultation and engagement work at earlier stages. Their activities have included workshops, attendance at community events to speak to local people about the Neighbourhood Plan, surveys to residents, and contacting local groups and organisations. This work has helped to inform the vision and objectives for the plans and the context for drafting policies. Details of the consultation work are set out in a Consultation Statement that needs to be submitted with the draft plan to the local planning authority.
- 6.2. Medway Council is a consultee on Neighbourhood Plans and has submitted comments to the emerging plans for Cliffe and Cliffe Woods, High Halstow and Arches (Chatham), and provided views on early work on the Hoo St Werburgh and Chattenden plan. The Council has also provided the neighbourhood planning groups with details of statutory consultees.
- 6.3. Once the draft Neighbourhood Plan has been submitted to the local planning authority, the Council must carry out a further round of consultation (at 'Regulation 16') in advance of arranging an examination on the draft plan. The Council carried out consultation on the draft Cliffe and Cliffe Woods Neighbourhood Plan in Spring 2022. Details of the responses received are published on the Council's neighbourhood planning webpages: (<https://www.medway.gov.uk/neighbourhoodplanning>). Limited responses

were received, which may reflect the level of consultation already carried out by the neighbourhood planning group in advance of submission.

- 6.4. The Council expects Arches (Chatham) to submit their draft plan this autumn and anticipates further progress in coming months on the High Halstow Neighbourhood Plan. The Hoo St Werburgh and Chattenden neighbourhood planning group is seeking to consult at Regulation 14 stage shortly.
- 6.5. As noted above, if the Council does not want to accept the recommendations in the examiner's final report, it is required to further consult on its decision.
- 6.6. Officers will brief Planning Committee at key stages of the preparation of Neighbourhood Plans.

7. Climate change implications

- 7.1. This report focuses on the process for preparing and adopting a Neighbourhood Plan. It does not present proposed policy. However, it is clear that Neighbourhood Plans have an important function in helping to address climate change, as integral to the delivery of sustainable development. Although the scope, vision, objectives and policies in the Neighbourhood Plan are largely driven by the local communities, these are framed within the context of national and Medway's planning policy. Adaptation and mitigations to climate change are central to the planning system. The Neighbourhood Plan must show how it complies with wider planning policy through the Basic Conditions Statement. This is further assessed by the independent examiner. In reporting to members at key stages of work on specific Neighbourhood Plans, there will be a section considering the climate change implications. It is noted that the Neighbourhood Plans in development across Medway all include ambitions to address climate change.

8. Financial implications

- 8.1. The costs of the early stages of preparing a Neighbourhood Plan are met by neighbourhood planning groups, but the Council has responsibilities for consultation, arranging an independent examination and referendum. The costs of these stages may be met within existing resources in the Planning Service and use of the government Neighbourhood Planning grant. Currently the support through the Department for Levelling Up, Housing and Communities, provides £5000 of support on the designation of a Neighbourhood Area, for the first five neighbourhood areas designated. Medway Council has received this funding for the five designated neighbourhood areas and one Neighbourhood Forum in Medway. Local planning authorities can claim a further £20,000 from when they issue a decision statement detailing their intention to send the plan to referendum. As the Council has not yet arranged an examination or referendum, the costs are estimated. However, the costs for the referendum would vary significantly with the size of the neighbourhood area. A large parish could generate substantial printing and postage costs, which could exceed the budget available through the external government grant.

8.2. Areas with adopted Neighbourhood Plans receive 25% of Community Infrastructure Levy (CiL) from developer contributions in their area. Medway Council continues to use S106 agreements to collect developer contributions as work on viability has informed that it is beneficial that Medway retains S106 rather than move to CiL as we will secure a greater level of contributions that would be secured through CiL.

9. Legal implications

9.1. The governance proposals set out in this report meet the requirements of Neighbourhood Planning process as set out in legislation, in particular, the Planning and Compulsory Purchase Act, 2004, and the Neighbourhood Planning (General) Regulations 2012, as amended. The rules covering all aspects of organising and conducting the polls can be found in the Neighbourhood Planning (Referendum) Regulations 2012 (as amended by the Neighbourhood Planning (Referendum) (Amendment) Regulations 2013 and 2014) and the Neighbourhood Planning (Prescribed Dates) Regulations 2012.

10. Recommendations

10.1. The Cabinet is requested to approve the governance process for Neighbourhood Plans as set out at paragraphs 4.3 to 4.7 to the report.

11. Suggested reasons for decision

11.1. To provide a clear governance process to support the preparation and adoption of Neighbourhood Plans in Medway.

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Appendices

Appendix 1 – Summary of key stages in Neighbourhood Planning process.

Background papers

None